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Attorneys for Defendant

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
AT PORTLAND

CITY OF PORTLAND, a municipal
corporation,

PLAINTIFF,

v.

UBER TECHNOLOGIES, INC., a Delaware
corporation, and RASIER, LLC, its wholly
owned subsidiary

DEFENDANT.

Case No. _____

**NOTICE OF REMOVAL OF CIVIL
ACTION**

DEMAND FOR JURY TRIAL

Multnomah County Circuit Court Case
No. 14CV-18915

PLEASE TAKE NOTICE that pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, Defendant removes this action from the Circuit Court of the State of Oregon, for the County of Multnomah, to the United States District Court for the District of Oregon in Portland, Oregon. The grounds for removal are as follows:

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1. The state court action, hereby removed, is a civil action over which this Court has jurisdiction under 28 U.S.C. § 1332(a), as the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between citizens of different states.

2. On or about December 8, 2014, this civil action was filed in the Circuit Court of the State of Oregon, for the County of Multnomah, entitled *City of Portland v. Uber Technologies, Inc.*, et al., Multnomah County Circuit Court Case No. 14CV18915 (hereinafter the “Action”). A copy of the summons and complaint which constitute all of the process, pleadings, and orders served on Defendant in that action up to the present date as required by 28 U.S.C. § 1446(a), are attached hereto as Exhibit 1.

3. Defendants Uber Technologies, Inc. and Raiser, LLC were served with a copy of the Summons and Complaint in the Action on December 8, 2014. This Notice of Removal is filed with this Court within thirty (30) days of service of the Complaint as required by 28 U.S.C. § 1446(b).

4. On information and belief, plaintiff City of Portland is a municipal corporation of the state of Oregon.

5. Defendant Uber Technologies, Inc. is a Delaware corporation with its principle place of business in California. Defendant Raiser LLC is a Delaware corporation with its principle place of business in California.

6. Venue lies in this Court because plaintiff’s action is pending in Multnomah County Circuit Court, which is within this District and Division. 28 U.S.C. § 1446(a).

7. The required jurisdictional amount of \$75,000 is met in this case. 28 U.S.C. § 1332. When injunctive relief is sought, as here, the amount in controversy may be satisfied where the “pecuniary result to either party” is more than \$75,000. *In re Ford Motor Co./Citibank (S. Dakota), N.A.*, 264 F.3d 952, 958 (9th Cir. 2001), *cert. granted in part sub nom.* 534 U.S. 1126 (2002), *and cert. dismissed*, 537 U.S. 1 (2002). The “potential cost to the defendant of complying with the injunction” is one way to measure that pecuniary result. *Id.* at

958. In addition to compliance costs that a defendant would directly incur, the lost profits that a defendant would suffer due to the entry of a requested injunction may form the basis for the amount in controversy. *Hunt v. Washington State Apple Adver. Comm'n*, 432 U.S. 333, 347 (1988) (in litigation over the constitutionality of a statute, the value of a party's right "is measured by the losses that will follow from the statute's enforcement," including the fact of lost business accounts that could lead to diminished profits), *abrogated on other grounds as stated in United Food and Comm. Workers Union Local 751 v. Brown Group, Inc.*, 517 U.S. 544 (1996); *Luna v. Kemira Specialty, Inc.*, 575 F. Supp.2d 1166, 1172-75 (C.D. Cal. 2008) (analyzing lost revenues in an action for an injunction to prevent enforcement of an employee's non-competition agreement); *Biotronik, Inc. v. St. Jude Med. S.C., Inc.*, 2012 WL3264046 *4-5 (D. Or. Aug. 5, 2012) (not reported) (the value of a litigant's ability to solicit customer accounts may be determined based on "the value of the disputed accounts, sales revenues" and other measures to determine jurisdiction). Here, Defendant will suffer lost profits in excess of \$75,000 if the requested injunction is entered and it is prohibited from operating its business, and will incur compliance costs in excess of \$75,000 if the requested injunction is entered and it must change operations to comply with the City's requirements. Specifically, the declaration of Brooke Steger, Uber's General Manager responsible for Seattle and Portland in the Northwest, establishes that the Company would suffer lost profits in excess of \$100,000 if the requested injunction is entered. That testimony also shows that the cost to Uber of changing their operations to comply with the City's unconstitutional requirements would cost in excess of \$100,000. Therefore, Defendant has met the amount-in-controversy requirement for removal to federal court.

8. Defendant has good and sufficient defenses to this action and does not waive any defenses, jurisdictional or otherwise, by the filing of this Notice.

9. Written notice of the filing of this Notice of Removal will be given to plaintiff, together with a copy of the Notice of Filing Notice of Removal and supporting papers with the

Circuit Court of the State of Oregon for the County of Multnomah, as required by 28 U.S.C. § 1446(d).

WHEREFORE, Defendant respectfully requests that this action be removed from the Circuit Court of the State of Oregon for the County of Multnomah to the Portland Division of the United States District Court for the District of Oregon.

DATED this 8th day of December, 2014.

DAVIS WRIGHT TREMAINE LLP

By  *OSB# 023528 for*
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Attorneys for Defendant

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing **NOTICE OF REMOVAL**
OF CIVIL ACTION on:

Tracy Reeve, OSB# 891123
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Portland, OR 97204
Email: tracy.reeve@portlandoregon.gov
Phone: 503-823-4047
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Of Attorneys for Plaintiff

☐ by mailing a copy thereof in a sealed, first-class postage prepaid envelope, addressed to said attorney's last-known address and deposited in the U.S. mail at Portland, Oregon on the date set forth below;

☒ by causing a copy thereof to be hand-delivered to said attorney's address as shown above on the date set forth below;

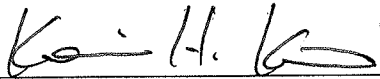
☐ by sending a copy thereof via overnight courier in a sealed, prepaid envelope, addressed to said attorney's last-known address on the date set forth below;

☐ by faxing a copy thereof to said attorney at his/her last-known facsimile number on the date set forth below; or

☒ by emailing a copy thereof to said attorney at his/her last-known email address as set forth above.

Dated this 8th day of December, 2014.

DAVIS WRIGHT TREMAINE LLP

By  OSB #023528 for
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